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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/633,803	08/04/2003	Leon K. Creech	CRL0001.US	7234

7590 08/01/2005  
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EXAMINER

GROSZ, ALEXANDER

ART UNIT	PAPER NUMBER
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3673

DATE MAILED: 08/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/633,803	Applicant(s) CREECH, LEON K.	
	Examiner Alexander Grosz	Art Unit 3673	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE THREE MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 5/16/05
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,7-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,7-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. <u>7/22/05</u> |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)                                 |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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In response to this action, applicant is urged to cancel nonelected claims 17-20, without prejudice.

On page 5, line 8, ~~Where~~ must be changed to -, where-

The "abstract" must be amended to describe the embodiment of claims 9-16.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 7-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is not clear what exactly are the various elements of the claims. It is not clear which are the various "fabric portions" of the claims.

It appears that in lines 30 and 32, before "rectangular", -top- should be inserted.

In response to this action applicant is urged to identify each and every element of the claims with reference to the drawings, with numerals in parentheses. Such numerals will aid in more easily "following" the claims and will help in avoiding "mistakes" but will not in any limit the scopes of the claims.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 7, 8 as best understood, are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Hester, Simpson of Korner et al Nos. 049 or 463.

The edges of the side panels define turn-under portions, and the sizing of the sheet is dictated by the geometry of the sheet. Anti-fraying stitches are conventional with sheet (and fabric) constructions. It is noted that no specific size of sheet and mattress combination is claimed, and as the "tolerances" in the sheet manufacturing arts are very broad a conventional, loose sheet, or a large sheet, would act in the manner desired by applicant, to for example, provide a turn-under portion, or the approximately 90° angle.

On 7/19/05, Mr. Garwood and I discussed the invention and the claims including the fact that the elements of the claims do not seem to read on the figures shown in the drawings, as well as the prior art which seems to read on the claims.

In response to this action, in order to patentably distinguish over the crowded prior art, Mr. Garwood indicated that he will consider amended the claims by:

- 1) Claiming a plurality of triangular fabric portions (as opposed to at least one);
- 2) Claiming right angled triangular portions, in which one leg of the right angled triangular portions is substantially longer than the other leg of the right angled triangular portion as shown in figures 1, 2; and
- 3) Include the limitations of claim 8.

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The specification would be appropriately amended to provide antecedent basis for the "non equilateral" triangular portion.

Any inquiry concerning this communication should be directed to Alex Grosz at telephone number 571-272-7041.

Grosz/vs  
July 25, 2005

ALEXANDER GROSZ  
PRIMARY EXAMINER

A large, stylized handwritten signature in black ink is written over the typed name and title of Alexander Grosz. The signature is fluid and cursive, with a long horizontal stroke extending to the right.